



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION IX**  
**75 Hawthorne Street**  
**San Francisco, CA 94105-3901**

**IN THE MATTER OF:**

Sutter County Water Works District No. 1 (Robbins)  
 Public Water System,

Respondent.

California PWS ID No. CA5100107

Proceedings pursuant to Sections 1414(g) of the Safe  
Drinking Water Act, 42 U.S.C. § 300g-3(g).

Docket No. PWS-AOC-2019-6000

**ADMINISTRATIVE ORDER**  
**ON CONSENT**

**I. INTRODUCTION**

1. The United States Environmental Protection Agency, Region IX (EPA) and Sutter County (“Respondent”) enter into this Administrative Order on Consent (“Consent Order”) for the purpose of bringing Respondent’s public water system located at 17690 CA-113, Robbins, CA 95676 and referred to as PWS ID No. CA5100107 (“System”) into compliance with the requirements of the federal Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f *et seq.*, and its National Primary Drinking Water Regulations (NPDWRs), 40 C.F.R. Part 141.

2. EPA and Respondent recognize that this Consent Order was negotiated in good faith and that Respondent has fully cooperated with the EPA.

3. EPA and Respondent recognize that Respondent’s participation in this Consent Order does not constitute an admission by Respondent of liability. Respondent neither admits nor denies the validity of the EPA Findings of Fact and Conclusions of Law set forth herein.

## **II. JURISDICTION**

4. EPA enters into and issues this Consent Order under the authority vested in the EPA Administrator by Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), which in turn has been delegated to the Director of EPA Region IX's Enforcement and Compliance Assurance Division.

5. EPA and the Respondent enter into this Consent Order voluntarily. Respondent agrees not to contest EPA's authority or jurisdiction to issue this Consent Order in this or in any subsequent proceeding to enforce the terms of this Consent Order. This Consent Order constitutes an enforceable agreement between the Respondent and EPA.

6. The State of California ("State") has primary enforcement responsibility for public water systems in the State and EPA has notified the State of this enforcement action in accordance with Sections 1414(a) and (g) of the SDWA, 42 U.S.C. §§ 300g-3(a) and (g).

## **III. DEFINITIONS**

7. "Consent Order" shall mean this document, all attachments hereto, all subsequent modifications, and all submissions required by this Consent Order and approved by EPA.

8. "Day" shall mean a calendar day unless otherwise specified. In computing a prescribed period of time, the day of the event shall not be included. In computing any period of time under this Consent Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

9. "Maximum Contaminant Level" (MCL) shall mean the maximum permissible level of a contaminant in water which is delivered to any user of a public water system, as further defined at 40 C.F.R. § 141.2.

#### **IV. EPA FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

EPA makes the following Findings of Facts and Conclusions of Law:

10. Respondent is a “municipality” within the meaning of Section 1401(10) of the SDWA, 42 U.S.C. § 300f(10), and also a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.

11. Respondent’s System provides daily water service to approximately 93 service connections or 350 residents in the town of Robbins, Sutter County, California, with the System’s main office located at 1130 Civic Center Blvd, Yuba City, CA 95991.

12. The System provides water for human consumption through pipes and has at least 15 service connections and therefore meets the definition of a “public water system” in Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4).

13. The System serves at least 25 year-round residents and thus qualifies as a “community water system” (CWS) within the definition in Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15), and 40 C.F.R. § 141.2.

14. The System’s source of drinking water is groundwater from one well that Respondent refers to as the Wagner Aviation well. The System also has a backup well referred to as the Sacramento Valley Blvd Well.

15. Respondent owns and operates the System and thus meets the definition of a “supplier of water” provided in Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. As a “supplier of water,” Respondent must generally comply with the requirements of Part B of the SDWA, 42 U.S.C. § 300g *et seq.*, and its NPDWRs, which include the MCLs for contaminants set forth at 40 C.F.R. § 141.62.

16. The MCL for arsenic set forth at 40 C.F.R. § 141.62(b) is 0.010 milligrams per liter (mg/L) (or 10 micrograms per liter (ug/L)).

17. The State of California (“State”) has promulgated its own Secondary MCLs (SMCLs) for total dissolved solids (TDS), chloride, and specific conductance in the California Code of Regulations (CCR) Title 22 § 64449. Sampling at Respondent’s System at Wagner Aviation Well beginning the first quarter of 2018 through the fourth quarter of 2018 has demonstrated that the System is not meeting the State TDS, chloride, and specific conductance SMCLs.

Contaminant	Secondary Maximum Contaminant Level Ranges		
	Recommended	Upper	Short Term
Total Dissolved Solids (mg/L)	500	1,000	1,500
Chloride (mg/L)	250	500	600
Specific Conductance (uS/cm)	900	1,600	2,200

18. The State, acting through its California State Water Resources Control Board – Division of Drinking Water (SWRCB), has primary enforcement responsibility under Section 1413(a) of the SDWA, 42 U.S.C. § 300g-2(a), to ensure that public water systems in California comply with the applicable requirements of the SDWA.

#### Violations of Arsenic MCL

19. On October 23, 2018, pursuant to Section 1414(a)(1) of the SDWA, 42 U.S.C. § 300g-3(a)(1), EPA issued a Notice of Violation to Respondent of the following violation:

20. Pursuant to 40 C.F.R. § 141.23(i)(1), compliance at a public water system conducting arsenic monitoring at a frequency greater than annually is determined by the running annual average (RAA). If the RAA for any sampling point is greater than the MCL, then the system is out of compliance; and if any one sample would cause the MCL to be exceeded on an RAA, then the system is out of compliance immediately.

21. Respondent's arsenic sampling data for the Wagner Aviation Well has exceeded 10 ug/L since at least 2014. The most recent data, from the third quarter of 2018 to the second quarter of 2019, are set forth in the table below:

Well Name	3 <sup>rd</sup> Quarter 2018	4 <sup>th</sup> Quarter 2018	1 <sup>st</sup> Quarter 2019	2 <sup>nd</sup> Quarter 2019	Running Annual Average (ug/L)
Wagner Aviation	14	14	14	15	14

22. As a result, Respondent's System has been out of compliance with the arsenic MCL since at least 2014 and remains out of compliance based on the most recent analytical results.

Exceedance of Total Dissolved Solids, Chloride, and Specific Conductance State Secondary MCLs

23. Pursuant to Title 22 § 64449(c), compliance at a public water system conducting total dissolved solids (TDS), chloride, and specific conductance monitoring at a quarterly basis is determined by the RAA. If the RAA for any sampling point is greater than the SMCL, then the system is out of compliance with state regulations.

24. Respondent's TDS, chloride, and specific conductance sampling data for the Wagner Aviation Well from the third quarter of 2018 to the second quarter of 2019 are set forth in the table below:

**Total Dissolved Solids**

Well Name	3 <sup>rd</sup> Quarter 2018	4 <sup>th</sup> Quarter 2018	1 <sup>st</sup> Quarter 2019	2 <sup>nd</sup> Quarter 2019	Running Annual Average (mg/L)
Wagner Aviation	2,000	2,400	2,200	1,900	1,675

**Chloride**

Well Name	3 <sup>rd</sup> Quarter 2018	4 <sup>th</sup> Quarter 2018	1 <sup>st</sup> Quarter 2019	2 <sup>nd</sup> Quarter 2019	Running Annual Average (mg/L)
Wagner Aviation	1,200	1,100	1,100	1,100	1,125

### Specific Conductance

Well Name	3 <sup>rd</sup> Quarter 2018	4 <sup>th</sup> Quarter 2018	1 <sup>st</sup> Quarter 2019	2 <sup>nd</sup> Quarter 2019	Running Annual Average (uS/cm)
Wagner Aviation	3,700	3,400	3,500	3,300	3,400

25. As a result, Respondent has exceeded the TDS, chloride, and specific conductance SMCLs set forth in Title 22 § 64449(a) based on the RAA of the available analytical results of Respondent's sampling at the System's sampling point at Wagner Aviation Well.

### **V. COMPLIANCE PROVISIONS**

Based on the foregoing findings and pursuant to its authority under Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), Respondent agrees and is hereby ORDERED to conduct the following activities:

26. **Letter of Compliance Efforts**: No later than fifteen (15) days from this Consent Order's Effective Date, Respondent shall transmit to EPA a letter summarizing any steps already taken by Respondent to comply with this Consent Order, the SDWA, and its implementing regulations at 40 C.F.R. Part 141, *i.e.*, the NPDWRs.

27. **Compliance with the SDWA**: Respondent shall expeditiously implement the Compliance Plan (attached as Exhibit A) and comply with all milestones, deadlines, and other requirements described in the Compliance Plan by January 1, 2022. Respondents shall provide drinking water that meets the arsenic MCL RAA from the System to all of its customers by January 1, 2023.

28. **Continuous Compliance with the Arsenic MCL**: Following Respondent's initial compliance with the arsenic MCL, Respondent shall maintain continuous compliance with the arsenic MCL for all water the System serves to its customers for human consumption.

**29. Provision of Alternative Water Until System Achieves Compliance with the SDWA:**

- a. Sutter County shall continue to have bottled water delivered to the school and residential customers by a private vendor. The amount of water delivered shall be based on any school's and residential customer's requests and on actual consumption. Drinking water shall continue to be provided under the existing schedule:
  - i. School: Up to 128 gallons per week while school is in session.
  - ii. Residences: Up to 25 gallons per week or 0.5 gallons per person per day will be delivered, whichever is greater; and,
- b. Respondent shall continue to deliver bottled water to the school and residential customers until at least such time as Respondent's System comes into compliance with the arsenic MCL in accordance with this Consent Order and the SDWA.

30. **Sampling and Analysis:** Respondent shall demonstrate its continuous compliance with the arsenic MCL pursuant to this Consent Order by having its drinking water samples analyzed by an EPA-certified laboratory in accordance with 40 C.F.R. § 141.23(c)(7).

31. **Increased Sampling and Analysis:** Respondent shall comply with any additional and/or more frequent arsenic sampling and analysis requirements determined necessary by EPA following written notice by EPA of any such requirements in accordance with 40 C.F.R. § 141.28.

32. **Reporting of the Sample Results:** Respondent shall ensure the analytical results of all sampling, including any additional samples not required by this Consent Order that Respondent may choose to collect, are submitted to EPA within forty-five (45) days of the sampling event.

33. **Reporting of Public Notification and Certification Form:** Respondent shall continue to provide public notice every three months for arsenic as required by 40 C.F.R. §§ 141.203(b) and 141.205, and submit a copy of the public notice and a certification statement to EPA and SWRCB that

all public notice requirements have been met within 10 days of completing the public notification as required by 40 C.F.R. §§ 141.31(d) and 141.201(c)(3).

34. **Quarterly Progress Reports:** Respondent must submit written reports to EPA that describe Respondent's progress in implementing its Compliance Plan during the previous quarter. The first Quarterly Progress Report is due by October 10, 2019. Subsequent reports are due ten (10) days after the last day of every calendar quarter thereafter, *i.e.*, the second Quarterly Progress Report is due January 10, 2020. Respondent must submit Quarterly Progress Reports until otherwise directed by EPA or the termination of this Order.

35. **Quarterly Meetings:** Respondent must convene quarterly meetings (by teleconference or at a centralized meeting location) and invite the SWRCB and the EPA to:

- a. Discuss the adequacy of Respondent's compliance with the Consent Order and its Compliance Plan;
- b. Establish any necessary managerial and governance protocols that will assist in Respondent's compliance with the Consent Order and Compliance Plan; and
- c. Discuss how to best promote long-term and efficient drinking water compliance at the System.

The first meeting must be held at a date to be determined by Respondent in October of 2019. Invitations to this first meeting must be provided at least fifteen (15) days in advance. Subsequent meetings must be convened before the last week of the last month of every quarter thereafter.

36. **Delays:** If any event occurs that causes or is likely to cause delay in the achievement of any requirement or time frame specified in this Consent Order, Respondent shall notify EPA in writing, within ten (10) business days of learning of such event, of the anticipated length and cause of the delay, whether the delay constitutes a *force majeure* event, as defined in Paragraph 39, the measures Respondent has taken and/or to be taken to prevent or minimize the delay and the timetable by which



Respondent intends to implement these measures and achieve the requirement or meet the time frame. Respondent shall adopt all reasonable measures to avoid or minimize delay. Submittal of the notice to EPA required by this paragraph does not extend any deadline or time frame in this Consent Order.

37. Upon receiving the notice required under Paragraph 36, EPA shall notify Respondent in writing, within ten (10) business days whether EPA agrees that the delay or anticipated delay in compliance with this Consent Order has been or will be caused by circumstances that constitute a *force majeure* event as defined in Paragraph 39 or other warranted circumstances. The compliance date may be extended in writing by EPA for a period of time no longer than the delay resulting from the circumstances causing the delay.

38. Respondent has the burden of demonstrating, by a preponderance of the evidence, that the actual or anticipated delay has been or will be caused by a *force majeure* event, that the duration of the delay was or will be warranted under the circumstances, that Respondent exercised or is using its best efforts to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of this section.

39. "*Force majeure*," for purposes of this Consent Order, is defined as any event arising from causes beyond Respondent's control, or of any entity controlled by Respondent, or of Respondent's contractors, which delays or prevents the performance of any obligation under this Consent Order despite Respondent's reasonable best efforts to fulfill the obligation. The requirement that Respondent exercise "reasonable best efforts to fulfill the obligation" includes using reasonable best efforts to anticipate any potential *force majeure* event and reasonable best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. Examples of events that are not *force majeure* events include, but are not limited to, increased costs or expenses of any work to be performed under this Consent Order, failure to diligently pursue

funding source(s), including federal and state funding sources, for work to be performed under this Consent Order, or normal inclement weather.

40. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this Consent Order has been or will be caused by a *force majeure* event, EPA will notify Respondent in writing of EPA's decision. Notwithstanding whether or not Respondent is granted a *force majeure* extension, EPA retains discretion to otherwise grant extensions of deadlines in this Consent Order as warranted.

41. Respondent may request to confer with EPA regarding compliance milestones, anticipated delays, opportunities to remedy or avoid delay, and other concerns. EPA will endeavor in good faith to confer with Respondent on these matters in a timely manner. Any such request by Respondent and/or any response or failure to respond to such a request by EPA shall not, notwithstanding further action by EPA, modify or change any requirement of this Consent Order, including milestone deadlines.

42. **Additional Information:** Respondent shall submit to EPA such additional documents and information as EPA may reasonably request to determine Respondent's compliance with this Consent Order.

43. All submittals to EPA made pursuant to this Consent Order must be accompanied by the following certification signed by Respondent's representative:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person(s) who managed the system, or of person(s) directly responsible for gathering the information, I certify that the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

44. Respondent must submit all information required under this Consent Order to:

Christopher Chen, Enforcement Officer  
SDWA Section  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency – Region IX  
75 Hawthorne Street (ENF-3-3)  
San Francisco, CA 94105  
Phone: (415) 972-3442  
Fax: (415) 947-3591  
E-mail: [chen.christopher@epa.gov](mailto:chen.christopher@epa.gov)

## **VI. GENERAL PROVISIONS**

45. Respondent shall fully implement each item of this Consent Order, including meeting the compliance schedules provided for in the EPA-approved Compliance Plan, subject to any extensions provided by EPA for deadlines set forth in this Consent Order. Respondent's failure to fully implement all requirements of this Consent Order in the manner and time periods required shall be deemed a violation of this Consent Order and the SDWA.

46. Respondent's failure to comply with all of the applicable requirements of the SDWA and 40 C.F.R. Part 141 may subject it to additional enforcement actions, including but not limited to judicial or administrative actions.

47. This Consent Order constitutes the entire agreement of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Order. This Consent Order, however, will not prohibit, prevent, or otherwise preclude EPA from taking whatever action(s) it deems appropriate to enforce the SDWA in any manner and will not prohibit, prevent, or otherwise preclude EPA from enforcing or using this Consent Order in subsequent administrative proceedings. Nothing in this Consent Order constitutes a waiver, suspension or modification of the requirements of the SDWA, or the rules and regulations promulgated thereunder, which remain in full force and effect. Issuance of

this Consent Order is not an election by EPA to forgo any civil or administrative action otherwise authorized under the law.

48. Violations of any term of this Consent Order may subject Respondent to (i) a civil judicial penalty of up to \$55,907 per day of violation, as assessed by the United States District Court, under Sections 1414(b) and 1414(g)(3)(A) and (C) of the SDWA, 42 U.S.C. §§ 300g-3(b) and 300g-3(g)(3)(A) and (C), and 40 C.F.R. § 19.4, or (ii) an administrative penalty of up to \$38,954 after notice and opportunity for hearing, under Section 1414(g)(3)(A) and (B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A) and (B).

49. This Consent Order does not relieve Respondent of any responsibilities or liabilities established pursuant to any applicable local, state, or federal law.

50. The provisions of this Consent Order are severable. If any provision of this Consent Order is found to be unenforceable, the remaining provisions will remain in full force and effect.

51. The provisions of this Consent Order are binding upon Respondent and its successors or assigns.

52. Providing false or misleading information may subject Respondent to civil or criminal enforcement, or both.

53. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to this Consent Order, including any right of judicial review under Section 1448(a) of the SDWA, 42 U.S.C. § 300j-7(a).

54. This Consent Order may be amended or modified by written agreement of EPA and Respondent.

55. Except for any data, reports, records, documents, and information required by this Consent Order, Respondent may assert business confidentiality claims under 40 C.F.R. Part 2, Subpart B for any other information (in whatever form) provided to EPA or may assert that such information is privileged as recognized by and consistent with federal law.

56. Respondent's undersigned signatory certifies to his or her authority to execute this Consent Order and to legally bind the Respondent to the terms of this Consent Order.


## **VII. EFFECTIVE DATE AND TERMINATION**

57. This Consent Order shall become effective five (5) business days after signature by the EPA and will remain in effect until Respondent demonstrates compliance with the terms and conditions of this Consent Order and is granted termination pursuant to Paragraph 57. EPA will provide the Consent Order to Respondent prior to it becoming effective.

58. After one year of completing all conditions of this Consent Order, Respondent may request in writing that EPA terminate this Consent Order. Such request shall include a discussion of why termination is appropriate. EPA shall either agree to the request and terminate this Consent Order or reject the request and provide a written response to Respondent containing EPA's reasons for not terminating the Consent Order. EPA's decision not to terminate the Consent Order shall not foreclose Respondent's opportunity to make additional termination requests at a later date.


IT IS SO AGREED AND ORDERED:

**For Respondent Sutter County:**

  
Mat Conant ~~RON Sulzberger~~  
vice Chairman of the Board of Supervisors

Date: 7.9.19

**For U.S. Environmental Protection Agency – Region IX:**

  
for Amy C. Miller, Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency – Region IX

Date: July 26, 2019

## **Robbins Water System – Compliance Plan**

### **Introduction**

Sutter County currently owns, operates, and maintains the Sutter County Water Works District No. 1 public water system (the “System”) for the community of Robbins, California, PWS ID No. CA5100107. Robbins is located approximately 22 miles south of Yuba City, along State Highway 113. The System has 93 connections serving approximately 350 residents, including a school, commercial connections, and approximately 107 households. The System operates off groundwater and includes 2 wells: the primary well (Wagner Aviation Well) and the secondary well (Sacramento Valley Blvd Well).

This compliance plan identifies how Sutter County intends to gain compliance with regulatory standards to provide drinking water from the System to all its customers that meets the arsenic maximum contaminant level (MCL).

### **Project Background**

The System is not able to currently meet the MCL for arsenic, and the secondary MCLs for iron, manganese, Total Dissolved Solids (TDS), specific conductance, and chlorides. The existing system is undersized and cannot treat water at volumes required by the distribution system. The System requires a supply source capable of meeting the maximum daily demand (MDD) with acceptable water quality.

Sutter County applied for technical assistance from the California State Water Resources Control Board (the “State”) to achieve compliance with regulatory standards. The State approved the application and awarded an agreement to California Rural Water Association to assist Sutter County. Several alternatives were considered, and a recommendation was made to install a new well near the intersection of Del Monte Avenue and Knights Road, build a pipeline to the Wagner Aviation Well site, expand the Wagner Aviation Well site, and treat the water to meet regulatory standards.

### **Compliance Plan Milestones**

1. Completion of design by California Rural Water Association

The design of the water treatment system is currently in process and is being reviewed by the California Division of Drinking Water, California Division of Financial Assistance, and Sutter County. Design shall be completed by **November 1, 2019**.

2. Prepare Drinking Water State Revolving Fund Construction Application

Sutter County will require financial assistance to construct the recommended treatment upgrades to the Robbins water system. It is Sutter County’s understanding, based on monthly conference calls, that funding assistance will be provided by the State’s Drinking Water State

Revolving Fund. The application will be prepared by Sutter County and shall be submitted to the State by **January 10, 2020**.

3. Land and Easement Acquisition

The project plan requires the acquisition of land at the intersection of Del Monte Avenue and Knights Road, and additional land at the Wagner Aviation Well site. Sutter County will be working with the property owners for the land acquisition. Land acquisition shall be completed by **May 29, 2020**.

4. Construction Completion Timeline

Sutter County will solicit bids for the construction of the project, and the award of the project will be made to Sutter County. The project will include the construction of a new well near the intersection of Del Monte Avenue and Knights Road, installation of pipeline to the Wagner Aviation Well site, and expansion of the Wagner Aviation Well to include an arsenic treatment system. Completion of the construction project to provide drinking water from the System to all its customers that meets the arsenic MCL shall be **January 1, 2022**.

5. Compliance with the Arsenic MCL Running Annual Average

The System shall serve drinking water that meets the arsenic MCL running annual average by **January 1, 2023**.